

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DIRECTV, INC.

Plaintiff,

No. CIV S-03-1909 DFL KJM PS

vs.

PHILIP HUNT, et al.,

Defendants.

ORDER

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Plaintiff's motion for default judgment came on regularly for hearing September 28, 2005. Suzanne Burke appeared telephonically for plaintiff. No appearance was made for defendant Ruiz. Upon review of the documents in support, no opposition having been filed, upon hearing the arguments of counsel, and good cause appearing, THE COURT FINDS AS FOLLOWS:

Plaintiff filed a proof of service indicating defendant Ruiz was served with summons at an address of 3309 Santa Rosa Way, Santa Rosa, CA 95407. See Docket no. 28. The notice of entry of default was served on defendant at that address but returned to the Clerk's Office with a notation that the addressee does not live at that address. Docket no. 32. Westlaw's People Finder--Historic Tracker Record indicates a Levi Ruiz has not lived at the 3309 Santa Rosa Way address since at least the year 2000. A current address for Levi Ruiz is listed in

1 Westlaw's People Finder as P.O. Box 2076, Windsor, CA.¹

2 The summons served on defendant Ruiz indicates defendant's address is 7860
3 Medallion Way, Rohnert Park CA 94928. Decl. of Suzanne M. Burke In Supp. Mot. For Default
4 Judgment (docket no. 46), Ex. A-5. There is no indication in the court's records as to why
5 defendant was not served at the address indicated on the summons.

6 There are other inconsistencies in the record with respect to defendant's alleged
7 address. The complaint alleges defendant is a resident of Manteca. Complaint at 4:15. The
8 exhibits submitted by plaintiff in support of the prove up hearing indicate a Levi Ruiz with a
9 billing address at the P.O. Box 2076 in Windsor, CA and a ship to address at the Medallion Way
10 address purchased an offending device. Decl. Of Jaime Sichler in Supp. Mot. For Default
11 Judgment (docket no. 45), Ex. A. A different address, however, is listed in the records of an
12 account with DirecTV indicating a Levi Ruiz lives at 855 Del Monte Court, Manteca, CA 95336.
13 Id., Ex. B.

14 It also is apparent plaintiff has some concerns regarding the proper address for this
15 defendant inasmuch as billing records filed by plaintiff's counsel indicate it was conducting
16 research on this issue on December 10, 2004. Burke Decl., Ex. E-29.

17 On this record, the court cannot recommend entry of default judgment. It is not
18 apparent that whoever was served with summons at the Santa Rosa Way address was in fact
19 defendant Ruiz or that the correct person named Levi Ruiz has been identified as the proper
20 defendant in this action.

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25 ¹ The court takes judicial notice of the contents of the People Finder records. Fed. R.
26 Evid. 201.

Accordingly, IT IS HEREBY ORDERED that:

1. Within twenty days from the date of this order, plaintiff may submit further evidence with respect to proper service of summons in this action.

2. The Clerk of Court is directed to serve a copy of this order on defendant Levi Ruiz at the following addresses:

- a. 3309 Santa Rosa Way, Santa Rosa, CA 95407;
- b. P.O. Box 2076, Windsor, CA 95492;
- c. 7860 Medallion Way, Rohnert Park CA 94928;
- d. 855 Del Monte Court, Manteca, CA 95336.

DATED: October 3, 2005.


UNITED STATES MAGISTRATE JUDGE

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